IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO.293 OF 2000

NRC Limited & Anr. ... Appellants

Vs.

1. Shri Appa Rajaram Shikare & Ors.) ... Respondents

Mr. P.K. Rele with Mr. Piyush Shah for the appellants.

Mr. C.S. Joshi for the respondent 1.

CORAM : SMT. RANJANA DESAI &
D.B. BHOSALE, JJ.

DATED : 23RD FEBRUARY, 2006.

ORAL JUDGMENT :- (Per Smt. Ranjana Desai, J.)

1. The appellants have challenged in this letters patent appeal order dated 21/7/2000 passed by the learned Single Judge on Writ Petition No.158 of 2000.

2. It appears that the respondents had filed a complaint in the Industrial Court, Maharashtra Bench at Thane being Complaint (ULP) No.680 of 1994 under Item Nos.5 and 9 of Schedule IV of the Maharashtra Recognition of Trade Unions & Prevention of Unfair Labour Practices Act, 1971 (for short,

"the said Act") stating that the appellants had committed unfair labour practices on and from 22/9/1994. The main question before the Industrial Court was whether the complainants were entitled to the benefit of the settlement dated 25/4/1993. The Industrial Court, after perusing the evidence on record, allowed the complaint. The Industrial Court held that the respondents are entitled to the benefits of the settlement dated 25/4/1993; that they are entitled to the bonus for the year 1991-92 and that the appellants had committed unfair labour practices under Item Nos.5 and 9 of Schedule IV of the said Act.

3. The said order was challenged in Writ Petition No.158 of 2000. The learned Single Judge, by the impugned order, modified the order of the Industrial Court. We may quote the material portion of the impugned order.

> *"10. In the premises, the order passed by the Industrial Court is modified to the extent that the complainant / workmen will be entitled to (i) the payment of ex-gratia in the amount of Rs.13,250/- pro rata for the work rendered from 1/1/1991 until the date of superannuation; (ii) the payment of bonus for the year 1991-92 subject to the workers meeting the requirements stipulated and (iii) the computation of gratuity for the actual service rendered by the workers*

until the date of superannuation on the basis of the enhanced ceiling of Rs.70,000/-.

11. The order passed by the Industrial Court has proceeded on the basis that the Company was bound to give the benefit of the entire package contained in its notice dated 25/4/1993 to the complainant workmen. This is not sustainable in its entirety because, as stated earlier, some parts of the offer viz. the revision of future wages and allowances would apply to the workers who are in service on and after the date of the lifting of the lock out. Besides, Reference IT No.12 of 1994 is pending adjudication and the Union would be at liberty to pursue those proceedings. However, that part of the offer which related to the past service rendered by the workers, viz. ex-gratia, gratuity and bonus is clearly attracted. The award of the Industrial Court, therefore, stands modified in the aforestated terms. The Petition is thus made partly absolute in the aforesaid terms. In the circumstances, however, with no order as to costs."

Therefore, the Union was allowed to pursue Reference IT No.12 of

1994 and the order of Industrial Court was modified to the above extent.

4. Being aggrieved by this order, the appellants have approached this court. It is pertinent to note that the respondents have not challenged this judgment.

5. We have heard, at some length, Mr. Rele, the learned counsel appearing for the appellants and Mr. Joshi, the learned counsel appearing for the respondents. The learned counsel for the appellants submitted that the appellants are not guilty of unfair labour practices inasmuch as the benefit was offered by the appellants by unilateral declaration dated 25/4/1993. The said letter would not amount to either an award or settlement within the meaning of Item No.9 of Schedule IV. He submitted that there is also no question of any favouritism or partiality regarding payment of such benefits because the respondents have already retired prior to 25/4/1993. The learned counsel further submitted that in the circumstances, this court may declare that the appellants are not guilty of any unfair labour practices. He further submitted that the appellants are willing to implement the order of the learned Single Judge.

6. We may note that pursuant to the order of this court dated 10/10/2000, the appellants have deposited an amount of Rs.4,80,000/- in the Industrial Court. The respondents were given permission to withdraw the said amount against bank guarantee. The respondents have, however, not withdrawn the

said amount. The learned counsel for the appellants stated that the appellants are willing to pay the balance amount payable by the appellants as per the impugned order.

7. The learned counsel for the respondents submitted that the appellants be directed to pay interest on the balance amount which they are liable to pay as per the impugned order from 1993 as the amount is due from 1993. We are unable to direct payment of interest. It is a fact that the respondents have not challenged the impugned order. It would not be open, therefore, for the respondents to seek anything more in the present appeal than that which is granted by the learned Single Judge.

8. So far as the merits are concerned, in the peculiar circumstances of this case, we find some substance in the submission of the learned counsel for the appellants that the findings recorded by the Industrial Court as regards unfair labour practices allegedly committed by the appellants cannot be sustained. Since the appellants have shown willingness to abide by the order passed by the learned single judge, in our opinion, following order will meet the ends of justice.

O R D E R

9. The letters patent appeal is partly allowed. We hold that the appellants

are not guilty of any unfair labour practices. With this modification, the impugned order dated 21/7/2000 passed by the learned single judge is confirmed. The appellants shall withdraw the amount of Rs.4,80,000/- deposited by them on 16/11/2000 in the Industrial Court at Thane within two weeks. The appellants shall disburse the said amount along with the balance amount payable under the impugned order dated 21/7/2000 passed by the learned Single Judge, to the respondents and/or their heirs, who shall approach the appellants. The respondents may approach the appellants anytime after 15/3/2006 but in any case within eight weeks from 15/3/2006. The appellants shall submit a report to the Industrial Court that the payment is made to the workers or their heirs as per this order. The letters patent appeal is disposed in the aforestated terms.

10. Needless to say that all civil applications stand disposed of.

[SMT. RANJANA DESAI, J.]

[D.B. BHOSALE, J.]